

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CALVIN WOLLUM,

Case No. 3:-06-CV-253

Plaintiff,

-vs-

Judge Thomas M. Rose

SECRETARY OF THE AIR FORCE

Chief Magistrate Judge Michael R. Merz

Defendant.

ENTRY AND ORDER OVERRULING WOLLUM'S OBJECTIONS (Doc. #14) TO THE CHIEF MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #13) REGARDING THE SECRETARY OF THE AIR FORCES'S MOTION TO DISMISS; ADOPTING THE CHIEF MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS DISMISSING WOLLUM'S COMPLAINT WITH PREJUDICE AND TERMINATING THIS CASE.

This matter is before the Court pursuant to pro se Plaintiff Calvin Wollum's ("Wollum's") objections to the second Report and Recommendations (doc. #13) regarding the Secretary of the Air Force's Motion To Dismiss. The Chief Magistrate Judge initially recommended dismissal of Wollum's Complaint without prejudice for lack of subject matter jurisdiction. (Doc. #9.) Wollum objected to this Report and Recommendations. (Doc. #10.)

In his objection, Wollum advised the Court that he was pursuing an employment discrimination claim instead of a Federal Tort Claims Act claim. The Chief Magistrate Judge then ordered the Secretary of the Air Force to file a Reply Memorandum to the Motion To Dismiss. (See doc. #11.) Upon receipt of this Reply Memorandum (doc. #12), the Chief Magistrate Judge issued the second Report and Recommendations that is the subject of this Entry

and Order. (Doc. #13.) In this Report and Recommendations filed on December 20, 2006, the Chief Magistrate Judge recommends that Wollum's Complaint be dismissed with prejudice because Wollum cannot establish a case of discrimination on the basis of the facts that he has alleged.

Wollum then objected to this second Report and Recommendations dismissing his complaint with prejudice (doc. #14) and the Secretary of the Air Force has responded to Wollum's objections (doc. #15). This matter is, therefore, ripe for decision.

The District Judge has made a de novo review of the record on this matter pursuant to 28 U.S.C. § 636(b) and Fed.R.Civ.P. 72(b). The Court notes that Wollum raises yet another new issue in his objections to the second Report and Recommendations. After having been unsuccessful on a Federal Tort Claims Act claim and on a discrimination claim, Wollum now seeks protection under the "WHISTLE BLOWER ACT." However, he has not made a whistleblower claim nor are the acts for which he purportedly seeks whistleblower protection the subject of this Complaint.

Upon consideration of the foregoing, the Court finds that Wollum's objections are not well-taken and they are hereby OVERRULED. The Chief Magistrate Judge's Report and Recommendations regarding the Secretary of the Air Force's Motion To Dismiss is ADOPTED in its entirety. Wollum's Complaint is DISMISSED WITH PREJUDICE.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton. The Clerk is ordered to provide a copy of this Entry and Order to Mr. Wollum at his address of record.

DONE and **ORDERED** in Dayton, Ohio, this Tenth day of April, 2007.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Calvin Wollum